

Application No. 10/519,352

REMARKS

This Amendment is in response to the Office Action dated April 18, 2007. Claims 1-19 are pending.

Claims 4 and 13 were amended to delete the phrase "preferably by mild acid hydrolysis". Claims 5 and 14 were amended to delete the phrase "preferably for the treatment of acute meningitis or septicaemia", with those conditions being rewritten as new claims 20-21. Claim 15 was further amended to delete "passive immunisation or protection of close contacts or susceptible individuals". Claims 5, 8, and 14 were amended to delete the phrase "preferably mice, rats, rabbits or pigs" and also amended for antecedent basis. Claim 8 was amended to delete the phrase "(sialylated and non-sialylated forms of P, pK, paragloboside, II, Lewis)", with this limitation being used as the basis for new claim 22. Claims 8 and 15 were amended to delete the phrase "i.e. saliva". Claim 8 was further amended for a typographical error in the spelling of septicaemia. Claim 19 was amended to be recast as a method claim.

Please note that the Patent Office received a preliminary amendment at the time of filing that amended claims 1-12 and added new claims 13-19. Since the amendments to the original claims are not believed to affect the substance of the Restriction Requirement, a substantive response has been made herein. Since all of claims 1-12 are in Group I and the new claims 13-19 were dependent from the same, these new claims should also be in the same Group I.

Applicant hereby elects Group I. The Applicant was invited in the Restriction Requirement (page 2) to make a species election to elect a combination of glycoconjugates, lipooligosaccharides, bacteria and/or antibodies and does hereby elect the same. The Examiner has not offered or required a choice between the alternatives in this combination and it is understood that the initial examination is not limited specifically to the combination but, instead includes the various possible combinations thereof. This understanding is consistent with the

Application No. 10/519,352

fact that (i) glycoconjugates, (ii) lipooligosaccharides, and (iii) killed bacteria or antibodies are closely linked. One reason that (i) to (iii) are closely linked is that lipooligosaccharides are a type of glycoconjugate (in which lipids are conjugated to sugars), and lipooligosaccharides are found in outer membranes of bacteria (as outlined in the Application on page 6, lines 27 to 29 and page 18, line 16 to 21). Another reason that (i) to (iii) are closely linked is that they serve as antigens in the production of the antibodies cited in claim 1. The antigens are useful for immunization (to enable the patient to produce antibodies), whereas the antibodies are useful for therapy (by eliminating meningococcal lipooligosaccharides after infection).

As part of the election, the Applicant is required to make a species election (page 2 of the Office Action). Accordingly, the applicants elect monoclonal antibodies (as per claim 8), with immunized animals as the source of antibodies, with the source further being antibodies being from fusion of lymphocytes with an animal hybridoma cell line (as per original claim 5, alternative 4). With respect to the required species election of bacteria, the Examiner has not defined whether the election shall be made with respect to the bacteria causing the disease (*Neisseria meningitidis*) or the commensal bacteria (*Moraxella catarrhalis*, claim 1, or *Neisseria lactamica*, claim 3). It is assumed that the commensal bacteria are meant and *Neisseria lactamica* are elected. The species of antigen is: glycoconjugates and the species of *Neisseria meningitidis* serogroup is serogroup B.

The Office Action states on page 2 that "Each Group detailed above reads on patentably distinct compositions. Each composition is patentably distinct because they comprise genes with differing genus, species, antibodies, and a further restriction is applied to each Group. (See MPEP 803.04)." The Office Action further states on page 2 that "Applicant is advised that examination will be restricted to only the elected sequence and/or disease and should not be construed as a species election." MPEP 803.04 is entitled "Nucleotide Sequences" and gives

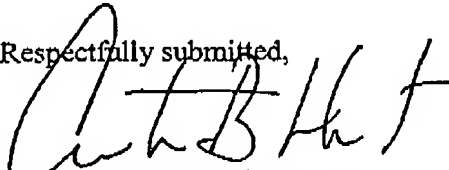
Application No. 10/519,352

examples of nucleotide claims. It is understood that these statements in the Office Action are unintended since there are no claims to genes or sequences and MPEP 803.04 does not provide any rules that extend beyond claims to sequences. Thus Group I defines the scope of the examination and the species elected herein are in response to a requirements for a species election.

Any restriction between diseases that might have been intended, however, is traversed because meningitis and septicaemia are closely related (as outlined in the Application from page 1, line 16 to page 2, line 5). Accordingly, there is no undue burden to search both species. Moreover, there is no basis in the cited MPEP or rules to limit examination to one of these diseases so that any such election would be a species election only. If, however, there was some intention to make a restriction between disease states, then for the sake of making a complete response, the disease septicaemia would be elected with traverse for the reasons discussed above.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



Curtis B. Herbert, Ph.D., Esq.
Registration No. 45,443

Customer No. 62274
Dardi & Associates, PLLC
US Bank Plaza, Suite 2000
220 South 6th Street
Minneapolis, Minnesota 55402
Telephone: (612) 605-1038